

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

MARK ROGOWSKI and NANCY ROGOWSKI, :
 : Case No.: 08 Civ. 0517 (KMK)
 :
 Plaintiffs, :
 :
 -against- : *ANSWER WITH CROSS-CLAIM*
 :
 JEFFREY FEAGLES, MICHAEL SWEETON, :
 THOMAS SHUBACK, TSKS, LLC and :
 THE TOWN OF WARWICK, :
 :
 Defendants. :
 :

Defendants THOMAS SHUBACK and TSKS, LLC, by their attorneys, Norton & Christensen, as and for their answer to Plaintiffs' Complaint, allege as follows:

1. Deny knowledge or information sufficient to form a belief regarding the truth or falsity of the allegations stated or contained in Paragraphs 1, 2, 3, 8, 16, 18, 19, 23, 24 and 26.

2. With respect to the allegations stated or contained in Paragraph 4, deny that Defendant Thomas Shuback ("Shuback") resides at 229 Mt. Eve Road and admit the balance of the allegations stated therein.

3. With respect to the allegations stated or contained in Paragraph 5, deny that Defendant Shuback has a controlling interest in Defendant TSKS, LLC ("TSKS") and admit the balance of the allegations stated therein.

4. Admit the allegations stated or contained in Paragraphs 6 and 12.

5. Allege that Defendants are not required to pled with respect to Paragraph 7 since it does not set forth any circumstances and in the event a responsive pleading is required, Defendants state that although Plaintiffs seek compensatory and punitive damages, they are not entitled to any damages from Defendants Shuback or TSK.

6. Deny each and every allegation stated or contained in Paragraph 9, 14, 17, 20, 21, 22 and 25.

7. Deny knowledge or information sufficient to form a belief regarding the truth or falsity of the allegations stated or contained in Paragraph 13 except deny that Defendant Shuback arrived at Plaintiff's residence or refused Plaintiff's request for return of any dirt lying on or about Mt. Eve Road and further deny that Plaintiff made any such demand upon Defendant Shuback.

8. Deny the allegations of Paragraph 15 and further allege that Defendant Shuback and TSK never took possession of the dirt removed from Mt Eve Road except to the extent that Defendants did not object to the Town's placement of the dirt on TSK's property.

AS AND FOR ITS CROSS-CLAIM

9. In the event Defendants Shuback and TSKS are found liable for any damages to the Plaintiffs, these Defendants are entitled to indemnity or contribution from the other Defendants.

WHEREFORE, Defendants Shuback and TSK respectfully demand judgment dismissing the Complaint and awarding to these Defendants the costs and disbursements of this action and such other and further relief as to the Court seems just.

Dated: March 11, 2008
Goshen, New York

Yours, etc.,

NORTON & CHRISTENSEN

By: /s/ Harold M. Pressberg
Harold M. Pressberg (HP8101)
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